



Alaska Department of Environmental Conservation

Division of Water

Antidegradation Implementation Regulations

Fact Sheet

What is Antidegradation?

Antidegradation is a tool used to protect the water quality in the State of Alaska. Antidegradation implementation is the method or process for determining whether and to what extent the water quality may be lowered or degraded.

The Federal Clean Water Act requires states to have an antidegradation policy and implementation methods. Federal legislation specifies that states must have an antidegradation policy that:

- Protects existing uses
- Authorizes the lowering of water quality in high quality waters, where necessary for social or economic importance.
- Provides mechanism to provide additional protection for water of exceptional ecological or recreational significance. These are often called Outstanding National Resource Waters or ONRWs or “Tier 3” waters.

This requirement is primarily designed to require states to look carefully during the wastewater discharge permitting process at the advantages and disadvantages of authorizing a new discharge of pollutants that will lower the quality of a water of the state. Among other factors, states are to look at: (1) water quality degradation from both point and nonpoint sources of pollution, (2) whether there are cost effective practicable alternatives to a new or increased discharge, and (3) what social and economic benefit in the area of the receiving water would be necessary to justify any degradation. States must include a process for nomination and designation of ONRWs or “Tier 3” water, which allows special protections for these designated waters.

Alaska’s current antidegradation policy, adopted in 1997, is found in the Water Quality Standards regulations at 18 AAC 70.015. EPA approved Alaska’s policy with the stipulation that Alaska write implementation guidance. DEC adopted interim implementation methods in July 2010, but has yet to adopt final implementation procedures in regulation.

Why is this important?

- The Antidegradation policy and implementation methods are protective of Alaska's waters.
- The Antidegradation policy and implementation methods assure that activities that lower or have the potential to lower water quality in the state are permitted only if those activities are necessary, important and protect existing uses.
- The Antidegradation policy directly affects the Alaska Pollutant Discharge Elimination System (APDES) application and permit development process.

What has been done so far?

DEC contracted with Tetra Tech, Inc. to produce an October 2008 report, titled "Evaluation of Options for Antidegradation Implementation Guidance." The report presents Alaska's antidegradation policy and how other States implement their policies. It describes the major elements of implementation procedures and includes options for Alaska's implementation procedures. The report is available on the DEC website at:

http://dec.alaska.gov/water/wqsar/wqs/pdfs/Antidegradation_tetrattech_final.pdf

DEC hosted a public workshop on antidegradation issues on December 2009. The purpose of the conference was to inform policy makers, wastewater discharge permittees, permit writers and interested public regarding options for implementing procedures. The conference included presentations by attorneys, the Environmental Protection Agency, an environmental interest group, and other states that have significant experience implementing antidegradation policies and in defending against legal challenges to their policies and implementation procedures. Information from the conference is posted on the DEC Antidegradation website at:

<http://dec.alaska.gov/water/wqsar/wqs/antidegconference.htm>

DEC adopted "Interim Antidegradation Implementation Methods" in July 2010. A copy can be found at:

http://dec.alaska.gov/water/wqsar/Antidegradation/docs/P&P-Interim_Antidegradation_Implemenation_Methods.pdf

In January 2012, DEC assembled a stakeholder workgroup, comprised of representatives from state resource agencies, industry and non-governmental sources, to evaluate options and to provide recommendations on various core elements for the final antidegradation implementation methods to be developed by DEC. The workgroup met six times. The initial meeting was in February 2012, and the final meeting was in October 2012. The meetings were conducted in person, in Anchorage and were open to the public.

During this time, an invitation to attend an informational teleconference on water quality protection was sent to community and tribal leaders on April 16, 2012. The public informational teleconferences were held at ten Alaska Legislative Information Offices on April 24 and April 26, 2012, and held with an open call line on June 19, 2012, with the same content at each event. The teleconferences were held to educate the public on antidegradation issues and were not part of the workgroup or a formal public comment process.

In January 2013, the workgroup completed a final report that highlights key issues and makes recommendations for drafting new antidegradation implementation regulations. All documents pertinent to this process are available on the DEC Antidegradation website at:

<http://dec.alaska.gov/water/wqsar/Antidegradation/index.html>.

The Division drafted proposed regulations based on the workgroup recommendations and internal departmental input, review and approval. The proposed regulations were noticed for public comment in January 2014 for 60 days, the comment period was extended for an additional 30 days, and closed in April 2014. During the public comment period, DEC presented information on antidegradation policy, implementation and the workgroup as part of the Alaska Forum on the Environment in Anchorage on February 2014. The presentation is available on the DEC Antidegradation website.

The Division received comments and based on the public feedback decided to hold additional workshop(s) in 2015 to discuss and evaluate select issues that were raised during the comment period.

The Division held a [public workshop May 13-14, 2015](#), to discuss issues identified during the initial public comment period on the Draft Antidegradation Implementation Method regulations. The Division evaluated the recommendations and information provided at the workshop for possible regulation revisions. Notes gathered during the public workshop, workshop presentations, and additional information are available on the DEC Antidegradation website at:

http://dec.alaska.gov/water/wqsar/Antidegradation/Workshop_notebook.html.

During the 2016 legislative session, the Governor introduced legislation (SB163 and HB283) specifically addressing only the Tier 3 nomination and designation process. The Governor requested the bills be set aside and committed to more dialog with Tribes and stakeholders to determine a path forward on the process that will work state-wide, now and in the future.

What happens now?

The Division is continuing to work on a Tier 3 nomination and designation process. The Division has decided to separate the proposed regulations into two phases and to notice draft regulations for Tiers 1 and 2 for public comment. While the draft regulations will include a Tier 3 analysis section for discharges to Tier 3 waters, **the Tier 3 nomination and designation process, as mentioned above, is still undergoing consideration and is not part of this regulation package.**

The draft regulations are posted on DEC's Antidegradation webpage at: <http://dec.alaska.gov/water/wqsar/Antidegradation/index.html>. The webpage will be updated throughout the public comment period as more information is available.

The draft antidegradation implementation method regulations, were posted for formal public comment on **June 2, 2017**. The department will accept comments throughout the public comment period ending **August 7, 2017**. You may comment on the proposed regulations by submitting written comments to Earl Crapps at ADEC Division of Water, 555 Cordova Street, Anchorage, Alaska 99501, or email Earl.Crapps@Alaska.gov, or fax to 907-269-7509. Comments may also be submitted electronically through the Alaska Public Notice System at <http://aws.state.ak.us/OnlinePublicNotices>. All comments must be received no later than **5:00 p.m. on August 7, 2017**.

Comments received after this date will not be considered in the final action on these regulations.

DEC will hold a question and answer session prior to a formal public hearing as part of the adoption process. The question and answer session is scheduled for one hour immediately preceding the hearing.

Oral or written testimony may be given at the public hearings. The date, time and location of the public hearings is:

Thursday, July 20, 2017 in the ADEC First Floor Conference Room, 555 Cordova Street, Anchorage, Alaska 99501. There will be a call-in number if you are not able to attend the meeting in person. The call-in number will be 1-800-315-6338, and the Meet Me Code will be 78594. The hearing will be held from 4:00 p.m. to 6:00 p.m. and may be extended to accommodate those present before 5:30 p.m. who did not have an opportunity to comment. **The question and answer session will begin at 3:00 p.m.**